

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF EUGENE AND) APPEAL NO. 06-A-2174
SHEILA BOTTS from the decision of the Board of) FINAL DECISION
Equalization of Elmore County for tax year 2006.) AND ORDER

RURAL LAND APPEAL

THIS MATTER came on for hearing November 1, 2006, in Mountain Home, Idaho, before Hearing Officer Steve Wallace. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Appellants Eugene and Shelia Botts appeared. Assessor Jo Gridley, Chief Appraiser Joell Saleoli, Deputy Appraiser Terry Hughes and Prosecuting Attorney Kristian Schindele appeared for Respondent Elmore County. This appeal is taken from a decision of the Elmore County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. RP05S11E328615A.

The issue on appeal is market value of rural land.

The decision of the Elmore County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is \$19,721. Appellants request the land value be reduced to \$8,573.

Subject property is 9.9 acres of vacant land adjacent to Appellants' primary residence with additional acreage.

Taxpayers protest the value placed on subject and argue that not all land should be valued the same and contend subject is not entirely usable. It is calculated that approximately 3 acres of subject are unusable because of the following restrictions:

1. A main transmission line running from the southeast corner to the northwest corner that causes restrictions on 2.4 acres;
2. A strip of large volcanic rocks and boulders, which make it quite difficult to modify or use; and

3. 3.9 acres of subject is Class A property and has no public access as it is surrounded by private land, the parcel was divided by a King Hill Irrigation District ditch 25 feet in width, running east to west taking water from the main ditch to the neighbors' properties. The King Hill easement states that it has rights to use adjacent land in order to maintain the ditch.

Taxpayers strongly argue that subject should be valued less because of the restrictions above, and held that a good portion of land is used for the benefit of other people.

Taxpayers presented a letter from Idaho Power stating that "the square footage of easement retained by IPCo on your property is approximately 2.4 acres." The letter outlined the restrictions placed on subject, reflecting that "all structures/landscaping/etc. which violate NESC clearances are prohibited."

Respondent suggested that a great deal of the area near subject has similar rock formations and concluded that this does not lower the market in the area. Respondent wrote in a letter to Appellants that ". . . there is not a reduction in land value due to the power lines not preventing use of your land."

Respondent presented a bare land sale chart to demonstrate values.

Sale Date	Acres	Sale Price
1/97	5.714	\$30,000
4/02	2.880	\$20,000
5/05	4.950	\$31,500
6/05	57.291	\$89,389

The Assessor stated the most similar property to subject was the 5.714 acres that sold in 1997 for \$30,000. This land is located next to subject and contained volcanic rock.

Respondent submitted an aerial photo to illustrate the comparable sales were located in subject's immediate area.

The Assessor addressed the transmission line by stating that “the power line does not affect the market or pose any problems and although it cannot be built on, it is still usable and therefore a viable property.”

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

In determining the value of property the assessor may and should consider cost, location, actual cash sale value and all other factors, known or available to his knowledge, which affect the value of the property assessed. Merris v. Ada County, 100 Idaho 59, 593 P.2d 394 (1979).

Relevant value factors were discussed including rock issues, topography and the fact that a power transmission line runs across the property. The assessed value is based on bare land sales, some of which contained volcanic rocks and boulders. None of the sales had power transmission lines running through them. There is disagreement over the potential value impact of a transmission line running through a portion of subject. Certainly there is an impact on property use.

Based on the current available information, we find it more probable than not that subject property value should reflect a consideration for non-typical attributes.

This Board believes an adjustment of approximately 10% is reasonable. No adjustment given the circumstances appears unreasonable. Therefore, we will modify the decision of the Elmore County Board of Equalization.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Elmore County Board of Equalization concerning the subject parcel be, and the same hereby is, **modified to reflect a decrease to \$17,751** (\$19,721 - \$1,970).

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellants.

DATED this 5th day of March , 2007.